IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

CRP.No. 715 of 2007()

AGAINST THE ORDER DATED 28/04/2007 IN SM.1/02/TLB/TLY. IN SM.1/2002 of TALUK LAND BOARD, THALASSERY

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REVN. PETITIONER: PETITIONER

AYIPUZHA JUMA-ATH PALLI MAHAL COMMITTEE
PATTANNUR, REPRESENTED BY ITS GENERAL SECRETARY,
AYIPUZHA JUMA-ATH PALLI MAHAL COMMITTEE,
AYIPUZHA P.O., PATTOM.

BY ADV. SRI.T.H.ABDUL AZEEZ
SRI.P.ANOOP (MULAVANA)

RESPONDENTS:

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1. THE TALUK LAND BOARD, THALASSERY.

2. THE TAHSILDAR, THALASSERY.

3. THE STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY TO
GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER BINDU

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISNAN, J.

C.R.P.No. 715/2007

Dated this 2nd day of August, 2007

O R D E R

This C.R.P is filed seeking to set aside the order of the Taluk Land Board, Thalassery, dated 28.4.2007 in S.M.1/2002. Taluk Land Board booked a suo motu case against the Ayipuzha Juma-ath Palli Mahal Committee and directed to surrender 15.64 acres of land. The contention of the Committee was to the effect that the Juma-ath Palli possessed 14 acres and 29 cents and the Madrassa Committee possessed 16 acres and 22 ½ cents and both the institutions will not come under the purview of the Kerala Land Reforms Act.

2. The Land Board extracted the definition of the 'Wakf' under Section 2(63) of the KLR Act and ultimately held that since no receipt is produced to show payment of 7% to the Wakf Board, the Land Board held that the revision petitioner had not succeeded in proving that the Revision Petitioner is not entitled to exemption and, therefore, ordered to surrender. The land Board also held

that no documents were produced. A perusal of the order itself would show that some documents were produced and the Committee prayed for time to produce some receipts after searching the records. Therefore, the Land Board should have given sufficient opportunity to the revision petitioner herein to produce the documents and then decide the case on merits. Even the question where no payment of 7% of the amount due will not invalidate the Wakf is a matter that requires consideration. It is only an obligation between the Wakf Board and the persons and the question of Wakf has to be decided in the light of the principles of Muhammadan law. Therefore, it suffers very serious infirmity and it is liable to be set aside and I do so. Therefore C.R.P is allowed. Order under challenge is set aside and the matter is remitted back to the Taluk Land Board for fresh consideration after affording sufficient opportunity to the revision petitioner to produce documents and substantiate the contention that properties will not be covered by the provisions of the KLR Act.

3. Needless to say, the respondents are also entitled to produce documents in case of necessity and the matter be disposed of within a time frame of three months from the date of first appearance. The parties are directed to appear before the Taluk Land Board on 6.9.2007.

M.N.KRISHNAN,
JUDGE

mrcs